

A IN RE JUDY BLACIOUS AF PEREIRA; PETITIONER

HIGH COURT MALAYA, KUALA LUMPUR

LEE SWEE SENG J

[PETITION NO: 18-730-07-2012]

20 MARCH 2015

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LEGAL PROFESSION: Admission – Petition for admission – Objection to admission – Bar Council objecting to call on grounds that petitioner not a fit and proper person – Whether petitioner’s breach of human rights as a former police officer rendered him not fit and proper to be enrolled – Meaning of “good character” – Whether notice of objection filed out of time – Whether petitioner prejudiced – Whether Bar Council had waived objections by not objecting to petitioner’s short call – Legal Profession Act 1976, s. 16(2)

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CIVIL PROCEDURE: Time – Shortening of – Whether court could allow shortening of time for filing of notice of objection under s. 16(2) Legal Profession Act 1976

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CIVIL PROCEDURE: Waiver – Statutory right – Whether statutory right can be waived or abandoned

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EQUITY: Estoppel – Statute – Whether estoppel may apply against a statute

WORDS AND PHRASES: Meaning of word “clear days” – Interval of time excluding date of commencement and date when act is done – Legal Profession Act 1976, s. 16(2)

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The petitioner was a former police officer who had done his pupillage and petitioned to be admitted as an advocate and solicitor of the High Court of Malaya. The Bar Council objected to his call. When the petitioner was the Deputy OCPD for Brickfields, he had arrested some Bar Council Legal Aid Centre’s (‘LAC’) lawyers who had gathered outside the Brickfields police station to provide legal representation to the people who had gathered there for a candle light vigil to show solidarity with some human rights activists who had been arrested. The Human Rights Commission (‘SUHAKAM’) convened a public inquiry into the abuse of human rights by the police in relation to the said incident and concluded that the petitioner’s evidence was totally unsatisfactory. The SUHAKAM report stated that the petitioner was either not telling the truth or suffered from a serious bout of loss of memory.

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The petitioner had initially denied interacting with any lawyers until he was confronted with direct evidence and documentary evidence in the form of the video footage. Hence, the Bar Council’s stand that the petitioner was not a fit and proper person to be called to the Bar. The Bar Council filed a notice of objection and a caveat before the filing of the long call papers. The objection was sustained by the learned judge who heard the matter and the petition was dismissed. The petitioner appealed against that decision to the Court of Appeal. The Court of Appeal held that the objection of the Bar

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Council was heard prematurely and therefore ordered the petition and the notice of objection to be reinstated for hearing on its merits. Thus, the present hearing of the petition. The Attorney General did not object to the petition. The Chief Judge of Malaya too had not filed any unfavourable report pursuant to s. 14(3) of the Legal Profession Act 1976 ('LPA'). The Perak Bar Committee supported the Bar Council's objection. The petitioner raised a preliminary objection that the current notice of objection was bad in law as it did not comply with s. 16(2) of the LPA which requires three clear days' notice to be given to the petitioner before the hearing of the petition. The notice of objection was served on 5 November 2014 which was less than three clear days from 7 November 2014. The petitioner argued that this non-compliance was fatal and that the notice should be expunged. The petitioner also contended that the Bar Council had waived its objections and had acquiesced to the actions of the petitioner by not objecting to his short call.

Held (allowing the petition with no order as to costs):

- (1) The word "clear" means the interval of time excluding both the date from which the period commences and the date when the act is done. There was already a notice of objection filed dated 15 March 2013 and a notice of caveat dated 3 June 2013 against the admission of the petitioner as an advocate and solicitor. The earlier notice of objection still held good and the current notice of objection was filed on an abundance of caution. The grounds of objection were identical with the earlier notice of objection. The earlier notice of objection had not been spent and indeed was very much alive. The petitioner was not prejudiced in any way. (para 14)
- (2) At any rate, the court as provided for under s. 16(2) LPA may allow any shorter period than the three clear days before the hearing of the petition. The court saw no good reason not to shorten the period of three clear days. The Bar Council has a public statutory duty to ensure that only persons of "good character" are admitted as an advocate and solicitor. Surely it would not stand to reason that that right and indeed duty cannot be exercised merely because upon realisation of the need to object, the period of three clear days had already passed. The public interest element must tip the scale as against the inconvenience suffered by the petitioner. (para 17)
- (3) The Bar Council's actions in not objecting to the petitioner's short call and in allowing the petitioner to sit for the Ethics and Professional Standards Course could not amount to a waiver or abandonment of its statutory right to file a proper notice of objection. The statutory right could not be said to have been waived or abandoned and neither would estoppel apply against a statute; *Mohammad Idres s/o Mohd Sulaiman Shah v. Malayan Banking Bhd* (dist). (para 20)

- A (4) Whilst no one failing to qualify as a person of “good character” should be allowed to be admitted as a member of the honourable legal profession, we must at the same time guard against the danger of condemning a would be member of the Bar without according him a proper right of being heard. The Bar Council did not lodge any police report after the release of the said SUHAKAM Report if they were concerned and indeed convinced that the petitioner had lied under oath. Had there been a prosecution and a conviction there would then be a valid ground to object to the petitioner’s call – for his “good conduct” or rather the lack of it would have been called in question. This was also not a case where the petitioner had been charged for perjury and convicted or for that matter served a prison sentence. It was also not a case where some departmental disciplinary action had been taken against the petitioner for some misconduct and that he had been found guilty. The petitioner had served the Force with distinction. (para 35)
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- D (5) The expression “good character” is broad enough to cover actions or inactions that impinge on breach of the human rights of detainees and the volunteer lawyers. However, here was not a case where the petitioner had suffered from an alarming deficiency in character. His was more a case where he had seriously misunderstood the application of the fundamental liberties provision of the Federal Constitution with respect to the rights of detainees and the legal counsel who represented them. For that he had paid for it in the civil suit where he was found liable. (para 53)
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- F (6) Justice of the case would be served if the petitioner was allowed to be called to the Bar after a lapse of three months. During this period, the petitioner should attend some human rights seminars, forums, activities or programmes for at least eight hours. (para 55)

Case(s) referred to:

- G *Ahli-ahli Suruhanjaya Yang Membentuk Suruhanjaya Siasatan Mengenai Rakaman Klip Video Yang Mengandungi Imej Seorang Yang Dikatakan Peguambela Dan Peguamcara Berbual Melalui Telefon Mengenai Urusan Pelantikan Hakim-Hakim v. Tun Dato’ Seri Ahmad Fairuz Dato’ Sheikh Abdul Halim & Other Appeals* [2012] 1 CLJ 805 FC (*refd*)
- Armstrong v. Great Southern Gold Mining Co* (1911) 12 CLR 382 (*refd*)
- Bolton v. The Law Society* [1994] 2 All ER 486 (*refd*)
- H *Chan Chow Wang v. Malaysia Bar* [1986] 1 LNS 94 HC (*refd*)
- Charanjit Singh Santokh Singh v. Majlis Peguam Malaysia & Anor* [2013] 3 CLJ 688 HC (*refd*)
- Fadiah Nadwa Fikri & Ors v. Konstale Fauziah Mustafa & Ors & Another Cases* [2014] 1 LNS 1467 HC (*refd*)
- Hartecon JV Sdn Bhd & Anor v. Hartela Contractors Ltd* [1997] 2 CLJ 104 CA (*refd*)
- I *In Re: Judy Blacious AF Pereira* [2014] 1 LNS 816 HC (*refd*)
- Jackson (previously known as Subramaniam) v. Legal Practitioners Admission Board* [2006] NSWSC 1338 (*refd*)
- Mohammad Idres Mohd Sulaiman Shah v. Malayan Banking Bhd* [2001] 5 CLJ 308 HC (*dist*)

Re Alan Wong Hoi Ping [1988] 1 LNS 55 HC (*refd*)

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Re Chin Swee Oon [1964] 1 LNS 167 HC (*refd*)

Re Hampton [2002] QCA 129 (*dist*)

Re SRC Augustin [1972] 1 LNS 128 FC (*refd*)

Shamsiah Ibrahim v. Attorney-General & Ors [1980] 1 LNS 114 (*refd*)

Thavanathan Balasubramaniam v. Majlis Peguam Malaysia [2009] 6 CLJ 217 FC (*refd*)

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Legislation referred to:

Human Rights Commission of Malaysia Act 1999, s. 15

Legal Profession Act 1976, ss. 11(1)(b), 14(3), 16(2)

Police Act 1967, ss. 3, 27

Rules of Court 2012, O. 53

Legal Profession Act [Brunei], s. 4

Legal Profession Act 1987 [Aus], ss. 11, 12

Nursing Act 1992 [AUS], s. 142(1)

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For the petitioner - Domnic Selvam (Yunus Ali & Norazali with him); M/s Rajandran Domnic & Co

For the Bar Council - Malik Imtiaz Sarwar (Pavendeep Singh with him); M/s Malik Imtiaz Sarwar)

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For the Perak Bar Committee - Babu Raj (Lai Choe Ken with him)

For the Attorney General - Cindy Jasmine

Reported by Amutha Suppayah

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JUDGMENT

Lee Swee Seng J:

[1] The petitioner was a member of the police force, having risen to the rank of a Superintendent of Police just before his retirement. Like some of his colleagues in the force, he has a law degree. Upon his retirement at the age of 60, he took a short break and then applied to commence his pupillage with a view to be called to the Bar. He was looking forward to being called as a member of the honourable legal professional and to be admitted and enrolled as an advocate and solicitor of the High Court of Malaya. That process proved to be quite a challenge for him as, lo and behold, the Bar Council objected to his call.

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Problem

[2] The first challenge was heard before the learned judge who upheld the objection of the Bar Council that the petitioner was not a fit and proper person to be called to the Bar. Apparently some years ago the petitioner as a Deputy OCPD for Brickfields, had arrested some Bar Council Legal Aid Centre's ("LAC") lawyers who had gathered outside the Brickfields police station to provide legal representation to the people who had gathered there for a candle light vigil to show some solidarity with some human rights activists that had been arrested. Some arrests were also made of those who gathered to protest.

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- A [3] The Human Rights Commission (SUHAKAM) true to its charter, had convened a public inquiry into the abuse of human rights by the police in the assembly outside the Brickfields police station and the arrest of some of the protesters and the Legal Aid lawyers. It concluded with a report that was published. Two lines in the report written by the Chairman of the Inquiry, Muhammad Shafee Abdullah, have come to haunt the petitioner. It reads:
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We find the evidence of DSP Jude totally unsatisfactory. DSP Jude either consciously was not telling the truth or suffered from a serious bout of loss of memory. DSP Jude initially denied interacting with any lawyers until he was confronted with direct evidence and documentary evidence in the form of the video footage.

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- [4] The Bar Council took umbrage with the petitioner on the above findings in the SUHAKAM report and decided to advance the argument that the petitioner is not a fit and proper person to be called to the Bar. The Bar Council filed the relevant notice of objection and caveat before the filing of the long call papers. The objection was sustained by the learned judge who heard the matter and the petition was dismissed. Dissatisfied with the decision the petitioner appealed to the Court of Appeal. The Court of Appeal was of the view that the objection of the Bar Council was heard prematurely and so it set aside the order of the learned High Court Judge and reinstated the petition and the notice of objection for hearing on its merits.
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[5] The matter then came before me for hearing on the date fixed for the hearing of the petition proper for the purpose of the petitioner being admitted as an advocate and solicitor of the High Court of Malaya.

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- [6] For completeness it should be stated here that the honourable Attorney General had not objected to the petition and indeed had left it to the court. The honourable Chief Judge of Malaya too had not filed any unfavourable report with this court pursuant to s. 14(3) of the Legal Profession Act 1976 (LPA) for this court to consider in the hearing of this petition. On the other hand the Perak Bar Committee had supported the Bar Council's objection.

G **Preliminaries**

The Preliminary Objection Of Res Judicata In That The Court Of Appeal In Allowing The Petitioner's Appeal Had Decided On The Merits Of The Notice Of Objection

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- [7] Learned counsel for the petitioner, Mr Domnic Selvam, raised the preliminary objection of *res judicata* in that the Court of Appeal in hearing the appeal of the petitioner and in setting aside the order of the High Court, had decided on the merits of the appeal from the decision of the learned High Court. The case of *Hartecon JV Sdn Bhd & Anor v. Hartela Contractors Ltd* [1997] 2 CLJ 104; [1996] 2 MLJ 57 was relied on in support of the proposition.
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[8] However to pursue that line of objection on ground that the Court of Appeal had set aside the order of the High Court would be like the proverbial ostrich burying its head in the sand, oblivious to what the Court of Appeal had actually said which must now be produced below:

YA Datuk Linton Albert

This is our decision. The appeal is allowed. We find that the petition had not been set down for hearing because documents under Section 15 subsection 3 of the LPA had not yet been filed. Accordingly the petition could not under those circumstances been fixed for hearing by virtue of section 16 subsection 3. We therefore allow the appeal in order for the petition to be heard. We accordingly remit it to the High Court for the petition to be fixed for hearing

[9] Then there was the clarification sought by learned counsel Malik Imtiaz for the Bar Council as follows:

Malik Imtiaz Sarwar

To seek clarification. In view of my Lords' and my Lady's decision that because the petition had not been heard this order cannot stand. I take it we are at liberty to pursue the objection at the hearing of the petition.

YA Datuk Linton Albert

Ya ya yes. That's why it has been fixed. Then it will trigger the Section 15.

[10] Finally there was the concluding remark of His Lordship Linton Albert as follows:

Okay 18th September, okay so you will both have another bite at the cherry.

[11] Nothing could be clearer in that at the right and ripe time when the long call papers would have been filed, then the petition for admission is to be heard with the notice of objection.

The Preliminary Objection That The Notice Of Objection Did Not Comply With s. 16(2) LPA

[12] The petitioner had raised the preliminary objection that the current notice of objection is bad in law as it does not comply with s. 16(2) of the LPA which requires three clear days' notice to be given to the petitioner. The notice of objection was only served on 5 November 2014 which is less than three clear days from 7 November 2014. The petitioner argued that there should be strict compliance with the period of serving the notice and that non-compliance is fatal and that the notice should be expunged.

A [13] Section 16 of the LPA is reproduced below:

B (1) A copy each of the petition and the affidavit required to be filed under section 15 together with true copies of each document exhibit pursuant to that section shall, within seven days of the filing thereof in the Registrar's Office, and not less than ten days or such shorter period as the Court may allow before the date fixed for hearing of the petition, be served on the Attorney General, the Bar Council and the State Bar Committee of the State in which the pupil has served any part of his period of pupillage.

C (2) If the Attorney General, the Bar Council or any State Bar Committee intends to object to any petition, there shall be served on the petitioner and filed in the Registrar's Office, not less than **three clear days** or **any shorter period as the Court may allow before the date fixed for hearing the petition**, a notice of objection which shall set out in brief the grounds of objection. (emphasis added)

D [14] I agree that the word "clear" means the interval of time excluding both the date from which the period commences and the date when the act is done. The period of time is the minimum as was propounded in *Armstrong v. Great Southern Gold Mining Co* (1911) 12 CLR 382 at 388.

E [15] I accept the Bar Council's contention that there was already a notice of objection filed dated 15 March 2013 and a notice of caveat dated 3 June 2013 against the admission of the petitioner as an advocate and solicitor. The objection of the Bar Council was heard *inter partes* and the learned judge who heard the matter had upheld the objections and had found that the petitioner was not a fit and proper person under s. 11(1)(b) of the LPA and had struck out the petition. The grounds of Her Ladyship's decision could be found in *In Re: Judy Blacious AF Pereira* [2014] 1 LNS 816.

F [16] Against that decision the petitioner had appealed to the Court of Appeal. The petitioner's contention that the earlier notice of objection and the caveat should have been heard together with the petitioner's petition for admission as an advocate and solicitor found favour with the Court of Appeal. The matter was thus remitted back to the High Court for rehearing on its merits. As such I agree with learned counsel for the Bar Council Mr Malik Imtiaz that the earlier notice of objection still holds good and that the current notice of objection was filed on an abundance of caution. The grounds of objection are identical with the earlier notice of objection. The earlier notice of objection had not been spent and indeed was very much alive. The petitioner was not prejudiced in any way. Indeed on the date fixed for hearing of the petitioner, this court had adjourned the hearing to 17 December 2014 for both the petitioner and the Bar Council to file further affidavits to reply each other and also for further submissions to be filed. There was thus more than ample opportunity for the petitioner to answer to the objection taken by the Bar Council.

[17] At any rate the court as provided for under s. 16(2) LPA may allow any shorter period than the three clear days before the hearing of the petition. This court sees no good reason not to shorten the period of three clear days and with the adjournment for further submission to 17 December 2014 and with the liberty given to the parties especially to the petitioner to file further affidavit to reply to the Bar Council's objection, the petitioner could not be said to have been prejudiced in any way. I am conscious of the fact that the Bar Council has a public statutory duty to ensure that only persons of "good character" are admitted as an advocate and solicitor. Surely it would not stand to reason that that right and indeed duty cannot be exercised merely because upon realisation of the need to object, the period of three clear days had already passed. See the case of *Shamsiah Ibrahim v. Attorney-General & Ors* [1980] 1 LNS 114; [1981] 1 MLJ 164.

[18] The public interest element must tip the scale as against the inconvenience suffered by the petitioner as his petition could not be disposed of in his favour on the date fixed; no doubt a very important and defining moment in the very act of being called to the Bar. As was observed in *Bolton v. The Law Society* [1994] 2 All ER 486 at p. 492:

... the essential issue ... is the need to maintain among members of the public a well-founded confidence that any solicitor whom they instruct will be a person of unquestionable integrity, probity and trustworthiness.

[19] I am constrained to dismiss this preliminary objection as being devoid of merits.

The Preliminary Objection Of Waiver And Abandonment In That The Bar Council Had Not Objected To The Petitioner's Short Call And Had Allowed The Petitioner To Sit For The Ethics And Professional Standards Course

[20] The petitioner contended that the Bar Council had waived its objections and had acquiesced to the actions of the petitioner by not objecting to his short call for limited audience in the High Court and the Subordinate Courts. The Perak State Bar Committee also did not object to his short call. The Bar Council had also allowed the petitioner to sit for the Ethics and Professional Standards Course by their letter of 30 April 2013. However I do not think that these actions can amount to waiver or abandonment of its statutory right to file a proper notice of objection within the prescribed time before the long call or the hearing of the petition for admission or within such extended time as may be allowed by the court under s. 16(2) LPA. While Mr Malik Imtiaz would consider it as a courtesy for the indication of an objection to be raised as soon as possible, I would think in all fairness to the petitioner any objection to his admission should be indicated to him as soon as possible. Be that as it may, the statutory right cannot be said to have been waived or abandoned and neither would estoppel apply against a statute. The petitioner's reliance on *Mohammad Idres Mohd Sulaiman Shah v. Malayan Banking Bhd* [2001] 5 CLJ 308; [2001] 5 MLJ 111 as authority for the principle of waiver could thus be distinguished.

A [21] To have objected to his short call would be to have prejudged the
matter of his “good conduct” even before he has finished his pupillage. That
would have been grossly unfair to him. As the proper time to hear an
objection to an admission is at the point of hearing of the petition on the call
day, any objection to a short call would short circuit the proper procedure
B for the objection to be heard such that if the objection is overruled, the
petitioner would have been deprived of his opportunity to gain the relevant
exposure and experience during his pupillage period. Likewise the sitting for
the Bar Council Ethics and Professional Standards Course. In the event the
objection is dismissed, the petitioner still could not be called as he would not
C have sat for the said course. That would be to visit the petitioner with a
double whammy!

[22] Looking at the scheme of pupillage and final admission at the end of
the pupillage, the pupil should be allowed to do everything necessary for the
admission unless he lacks the basic objective qualifications of age, citizenship
D or permanent residency, university and professional qualification and that
the decision of whether the petitioner is of “good conduct” should be left to
be decided after the petitioner has finished his pupillage and has filed his long
call papers for admission as and advocate and solicitor. That is both natural
and necessary as the requirement of “good conduct” can be a rather difficult
E one to determine based no doubt on the particular circumstances of the case
in which the petitioner is said to have lacked this core and critical ingredient
with respect to his character. Without doubt it is so much easier to determine
academic and professional competency then it is to determine professional
conduct.

F [23] Mr Domnic for the petitioner also submitted that the Bar Council
cannot be heard to be objecting to this petition as they would have filed a
favourable report on the character of the petitioner under s. 14(3) LPA, as
otherwise the Chief Judge would have forwarded the report to this court for
its consideration. Section 14 of the LPA provides as follows:

G (1) Upon any petition for admission and enrolment as an advocate and
solicitor being filed, the Bar Council shall make or cause to be made full
inquiries into the character of the petitioner and upon such petition being
set down for hearing forward to the Chief Justice a confidential report of
the result of such inquiries.

H (2) All State Bar Committees (if more than one) in the States in which
a person applying to be admitted pursuant to section 15 has served his
pupillage, shall upon the person’s petition being set down for hearing
make or cause to be made full inquiries into the character of the petitioner
and the confidential report of the result of the inquiries shall be forwarded
to the Chief Justice with such comments upon it as the Bar Council may
I consider necessary.

(3) If any of the reports referred to in subsection (1) or subsection (2) is unfavourable to the petitioner, the Chief Justice may, if he thinks fit, direct such report to be filed in Court and a copy thereof to be served on the petitioner and, subject to such directions as the Court may give, such report shall be taken into consideration on the hearing of the petition. (emphasis added)

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[24] However, the discretion is with the Chief Judge as even if an unfavourable report of the petitioner is given by the Bar Council, that does not necessarily mean that the said unfavourable report must be forwarded to this court. The discretion is with the Chief Judge alone and as the report is confidential, parties had not taken the arguments further.

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[25] The Bar Council cannot in all the circumstances of the case be said to have waived or abandoned their objections to the petitioner's call to the Bar.

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Principle

Whether The Petitioner Is Of "Good Character" So As To Be Admitted As An Advocate And Solicitor

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[26] The requirement of "good character" is provided for under s. 11(1)(b) LPA as follows:

Section 11(1)

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(1) Subject to section 14, a qualified person may be admitted as an advocate and solicitor if he:

(a) has attained the age of eighteen years;

(b) is of **good character**; and

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(i) has not been convicted in Malaysia or elsewhere of a criminal offence as would render him unfit to be a member of his profession, and in particular, but not limited to, an offence involving fraud or dishonesty;

(ii) has not been adjudicated bankrupt and has not been found guilty of any of the acts or omissions mentioned in paragraph (a), (b), (c), (d), (e), (f), (h), (k) or (l) of subsection (6) of section 33 of the Bankruptcy Act 1967 [Act 360];

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(iii) has not done any other act which, if being a barrister or solicitor in England, would render him liable to be disbarred, disqualified or suspended from practice; or

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(iv) has not been, or is not liable to be, disbarred, disqualified or suspended in his capacity as a legal practitioner in any other country;

(c) is either a Federal citizen or a permanent resident of Malaysia;

(d) has satisfactorily served in Malaysia the prescribed period of pupillage for qualified persons. (emphasis added)

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- A [27] What is meant by “good character” is both easy and difficult to understand. How good is good? When does less than good become bad? When does a little bit of bad qualify to be still generally good? If a person has been bad before does that mean he cannot ever become or qualify to be of “good character” again? Is there a cooling off period of rehabilitation?
- B [28] The case of *Re Alan Wong Hoi Ping* [1988] 1 LNS 55; [1988] 3 MLJ 25 provides some rough guidance as to what is “good character”. Godfrey J, in interpreting the word “character” in the context of s. 4 of the Brunei Legal Profession Act said, at p. 27:
- C What is a man’s ‘character’? It may be his disposition, what he in fact is; or it may be his reputation, what other people think he is: see, for example, *Plato Films Ltd v. Speidel* [1961] AC 1090 especially the speech of Lord Denning at pp. 1137 and 1138. For the purposes of the qualification (b) in s. 4, in my judgment, it means both his disposition and reputation, so that if the petitioner appears, from the evidence on the petition, either to lack the qualities of integrity, honesty and the like which an advocate and solicitor ought to possess, or to have a bad reputation in these respects,
- D he will be shown to want that ‘good character’ which he needs in order to satisfy the qualification. (emphasis added)
- E [29] Learned counsel for the petitioner drew the court’s attention to the case of *Jackson (previously known as Subramaniam) v. Legal Practitioners Admission Board* [2006] NSWSC 1338 where the plaintiff was charged with two offences. The first was for making “a statutory declaration knowing it was false with intent to pervert the course of justice”. The second charge was that she “gave false evidence to the district court with intent to pervert the course of justice”. She was acquitted by the jury on the second count and
- F subsequently, the Director of Public Prosecutions decided not to take further proceedings in respect of the first count. She then applied to be admitted as a legal practitioner. The Legal Practitioners Admission Board refused to declare that it was satisfied that she was of good fame and character and otherwise suitable for admission as a legal practitioner. She appealed to the
- G Supreme Court of New South Wales. Johnson J, in delivering the judgment of the New South Wales Supreme Court, described the meaning of “good fame and character” in ss. 11 and 12 of the Australian Legal Profession Act 1987 as “the test of ethical fitness for admission to the legal profession” and made the following pertinent observations:
- H [57] *High standards are expected of legal practitioners, so that members of the public, litigants, other practitioners and the courts themselves can have confidence in the integrity of those who enjoy special privileges as legal practitioners ... This Court is the guardian of the maintenance of those standards ...*
- I [58] Honesty and integrity are central prerequisites to a right to practice law ... It has been observed. In the context of striking off proceedings, that the quality most likely to result in striking off is conduct which undermines the trustworthiness of a practitioner, or which suggests a lack of integrity or that the practitioner cannot be trusted to deal fairly within the system in which he or she practices ...

[264] I am conscious of the consequences that flow from a finding that the Plaintiff has engaged in improper conduct, involving the making of a false statutory declaration and the giving of false evidence. *A finding that the Plaintiff is not of good fame and character, and is otherwise not suitable for admission as a legal practitioner on those grounds, is capable of constituting a long-standing, if not permanent, impediment to the Plaintiff's admission to the legal profession. It is not a finding to be made lightly.* I have given careful consideration to the evidence adduced and submissions made on this appeal.

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[265] *However, the function which I am exercising touches the public interest, and the protection of the community and the legal profession. Admission of a person as a legal practitioner reposes in that person a significant degree of trust. Courts and fellow practitioners are entitled to rely upon legal practitioners, and honesty and integrity are essential preconditions to admission to the legal profession.*

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[266] Being reasonably satisfied, on the balance of probabilities, I have made findings of fact of substantial impropriety against the Plaintiff ...

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[268] *I have had the advantage of seeing the Plaintiff give evidence and I have considered carefully her evidence. For reasons given, I do not find the Plaintiff to be a witness whose evidence was frank and who faced the facts put before her or the implications of them ... I have found portions of her evidence to be not credible.*

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[269] *This assessment of the Plaintiff's credibility bears upon two things; her character and what she is apt to do in the future. These are related issues. Findings as to credibility may be taken into account in arriving at findings as to the two other matters ...*

[270] I am conscious that the events which have attracted the principal attention of the Court on this appeal occurred more than a decade ago. *However, the making of a false statutory declaration and the giving of false evidence in a Court are matters which strike at the heart of the process of justice. To act in such a way is entirely inconsistent with the requirements of integrity and honesty which are essential prerequisites for admission as a legal practitioner. Findings that the Plaintiff has acted in this way are inconsistent with the requirement that the Plaintiff be of good character...*

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[273] Having regard to the findings which I have made, I am not satisfied that the Plaintiff is of good fame and character and is otherwise suitable for admission as a legal practitioner. (emphasis added)

[30] To be clear one does not have to be a saint to be of "good character". To be fair the longer one lives the more would one's conduct be available for scrutiny especially if one has any brush with the law. I would suppose that one who has more dealings with the law would be subject to a greater scrutiny test. Indeed a wise teacher once observed that everyone to whom much is given of him will much be required. The petitioner as a member of the police force is given much in terms of the public trust as a law enforcer and Parliament has also given much power to the police to carry out the purposes as stated in s. 3 of the Police Act 1967 with respect to maintaining law and order and preserving the peace; not to mention the apprehending of offenders.

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A [31] The conduct of the petitioner that was called in question has to do with his testimony before the SUHAKAM panel of inquiry of what happened on the night of 7 May 2009 at the precincts of the Brickfields Police Station, Kuala Lumpur. The petitioner was the second highest ranking police officer on duty that night as a DSP. The facts as found by SUHAKAM in its report of 23 April 2010 as found in exh. B to the notice at pp. 30-32 may be summarised here. One Mr Wong Chin Huat an activist had been arrested prior to 7 May 2009 for an alleged offence of sedition. On the day in question 7 May 2009 a group of supporters had gathered at the Brickfields Police Station in solidarity. OCPD Wan Abdul Bari considered the assembly illegal as it had no police permit pursuant to s. 27 Police Act 1967. After several warnings were given by the said OCPD, 14 of them were arrested for illegal assembly.

D [32] The SUHAKAM Report continued to state that as a result of the arrest, the LAC lawyers were alerted and made their way to the Brickfields Police Station and notified the Brickfields Police that they were lawyers for those 14 who had been detained during the candle light vigil. They were initially told to wait as the investigations officer, the petitioner, was at a meeting. The petitioner was later in contact with one of the LAC lawyers via mobile phone with respect to certificates allegedly signed by the detainees of waiver of their right of access to their lawyers. To cut the long story short and to fast forward to the key event, the petitioner subsequently arrested the LAC lawyers for allegedly having been involved in an illegal assembly. These lawyers were then denied access to their counsel and they were detained for a period of time.

F [33] The Malaysian Bar proceeded to hold an EGM on 15 May 2009 at which the Malaysian Bar condemned the conduct of the police, and in particular the petitioner, and called for the petitioner's resignation. Learned counsel Mr Malik Imtiaz submitted that SUHAKAM found the evidence of the petitioner in respect of the police's interaction with the LAC lawyers at the said police station to be "totally unsatisfactory". The report states:

G ... the police witnesses in particular DSP Jude Pereira ... were totally hazy with their testimony pertaining to their interaction with the 5 lawyers or for that matter with other lawyers including the Chairman of the Bar who arrived subsequent to the arrest of the lawyers. **We find the evidence of DSP Jude Pereira totally unsatisfactory. DSP Jude Pereira either consciously were (sic) not telling the truth or suffered from a serious bout of loss of memory.** DSP Jude Pereira initially denied interacting with any lawyers until he was confronted with direct evidence and documentary evidence in the form of video footage ... (emphasis added)

H [34] I take into consideration the fact that the above statement is sliced with some sarcasm or perhaps susceptible to more than one possible interpretation. Granted there are various expressions that a judge or a Chairman of a Panel may use when disbelieving a witness especially when

it is not consistent with contemporaneous documentary evidence such as in this case a video footage, as to what happened. It ranges from a condemnatory rebuke as in the “witness was clearly lying”, to that the “witness was very economical with the truth” to that the “witness lacks credibility” or even to that the “witness was misleading the court.” When a doubt is expressed as to whether it could be a case of conscious lying or an inability to recall because of the fading of one’s memory of the event through the passage and the pale mist of time, that doubt must certainly be resolved in favour of the petitioner. At the end of the day the benefit of doubt should be given to the petitioner as it may well be more a case of the latter where he has forgotten to remember and so his inability to recall, rather than the more reprehensible conduct of the former in that he has remembered to forget and so ended up consciously not telling the truth. In the final analysis, under cross examination or re examination a witness would ordinarily, when confronted with a video footage which does not lie (unless it has been tampered with and here there is no suggestion of that), have corrected himself and so no one would have been misled, least of all the Panel of Inquiry. However as the notes of evidence of the Panel of Inquiry were not exhibited, this court is bereft of the benefit of further scrutiny with respect to what the evidence was like when the video footage was shown.

[35] While we must be careful that no one suffering a defect or deficiency in character be admitted to the Bar, we must be careful not to demand of others more than what we would demand of ourselves. Whilst no one failing to qualify as a person of “good character” should be allowed to slip through a crack and so be admitted as a member of the honourable legal profession whose core value must certainly be that of impeccable integrity and unquestionable honesty, we must at the same time guard against the danger of condemning a would be member of the Bar without according him a proper right of being heard. Here the Bar Council did not lodge any police report after the release of the said SUHAKAM report if they were concerned and indeed convinced that the petitioner had lied under oath. That would allow for an investigation paper to be opened and statements taken from the relevant witnesses and the petitioner. After that the honourable Attorney General may then exercise his discretion whether or not to prosecute. Had there been a prosecution and a conviction there would then be a valid ground to object to the petitioner’s call - for his “good conduct” or rather the lack of it would have been called in question.

[36] To put the problem in its proper perspective, this is not a case where the petitioner had been charged for perjury and convicted or for that matter served a prison sentence. It is also not a case where some departmental disciplinary action had been taken against the petitioner for some misconduct and that he had been found guilty. Indeed from the affidavit evidence not disputed he has served the Force with distinction both locally and in Sierra Leone where he served with the United Nations peacekeeping forces as part of the Malaysian Contingent.

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A [37] Not only was there no disciplinary proceedings against the petitioner throughout his years of service with the Malaysian Police Force and even after the incident, in fact he was promoted to the rank of Superintendent before retiring after some 37 years of service. Notwithstanding the character reports of two persons vouching for his good conduct as required under
B s. 14 of the LPA, two other independent persons have also vouched for his character as evidenced in exh. JP-1 of the petitioner's affidavit.

[38] The petitioner's case is thus markedly different from that of the applicant in *Re Hampton* [2002] QCA 129, referred to by Mr Malik Imtiaz. The applicant there was a registered nurse between 1991 and 1997. When
C employed at Cairns Base Hospital, he had between 1991 and 1992, behaved inappropriately with a female student nurse (the "Cairn's Incident"). The Nurses' Registration Board of Queensland conducted an enquiry in 1993 and suspended the applicant for 12 months. He subsequently found employment at Logan Hospital. In 1997, he again behaved inappropriately with a patient
D under his care (the "Logan Incident"). He was dismissed from employment and in 1998, he pleaded guilty before the Professional Conduct Committee to a charge of conduct discreditable to a registered nurse, in that he "used confidential information for private purposes by attending at the private residence of a patient". This led to the cancellation of his registration as a
E nurse.

[39] Subsequently, the applicant pleaded guilty in the Magistrates Court to a charge that he had performed a nursing service contrary to s. 142(1) of the Nursing Act 1992, which prohibits a person who is not a nurse from performing a nursing service. No conviction was however recorded. In 2001,
F he applied to be admitted as a solicitor. The Supreme Court of Queensland Court of Appeal refused the application. Jersey CJ opined as follows:

[23] **The applicant's past history shows that, at times when he was a person of mature years, he displayed a considerable lack of professional judgment and discretion.** The events in Cairns involved some misuse of professional power in relation to a subordinate. The Logan Incident
G involved the misuse of confidential information to the emotional detriment of the complainant. One sense a degree of reckless opportunism also characterised his working for Lifescreen without careful investigation whether he would thereby contravene the Nursing Act.

[24] The Cairns Incident raised serious doubt about the applicant's professional discretion and judgment. While those events occurred some years ago (an aspect emphasised by his Counsel), the doubt emerging from them endures, largely because fed by the events of 1997 and 1999. The applicant concedes the inappropriateness of his conduct in 1997, but any consequent strengthening of his position because of that apparent candour is nevertheless again dismissed by the nature of the events
H culminating in his pleading guilty in 1999 to acting in a professional capacity although not registered.
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[25] *What emerges from the aggregation of those circumstances covering some years, is that the applicant lack appropriate professional judgment and discretion. While the sort of dereliction which occurred in his professional capacity as a nurse may not translate directly into practice as a solicitor, the attitude basing that dereliction would raise risks were he to practise as a solicitor, as it did while he was a nurse. It suffices to point out that solicitors necessarily have very close professional relationships with their clients, and are privy to highly confidential information ...*

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[30] *It may be that the applicant will at some future time be in a position to dispel the doubts which currently arise and thereby establish his fitness ... I appreciate the hardship which refusing the application will unfortunately occasion the applicant, but the court's focus must, in these case, rest primarily on the public interest. (emphasis added)*

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[40] I also take into consideration that currently under our jurisprudence it is difficult if not impossible to challenge such a finding of fact of a Panel of Inquiry set up under the Suhakam Act. There is no "decision" made within the meaning of O. 53 Rules of Court 2012 ("ROC") that may be the subject matter of a judicial review. Mr Malik Imtiaz agreed that the petitioner has no real recourse to challenge the finding of the Chairman of the Panel of Inquiry with respect to the comments made on his lack of credibility. The Federal Court case of *Ahli-ahli Suruhanjaya Yang Membentuk Suruhanjaya Siasatan Mengenai Rakaman Klip Video Yang Mengandungi Imej Seorang Yang Dikatakan Peguambela Dan Peguamcara Berbual Melalui Telefon Mengenai Urusan Pelantikan Hakim-Hakim v. Tun Dato' Seri Ahmad Fairuz Dato' Sheikh Abdul Halim & Other Appeals* [2012] 1 CLJ 805; [2011] 6 MLJ 490 has resolved this issue authoritatively as follows:

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[27] We adopt the same view. Under the scheme of O. 53 of the RHC, only a person adversely affected by the decision of a public authority shall be entitled to make the application for judicial review. In the present case, there is no dispute that the Commission is a public authority. But *we are of the view that the Commission is not a decision making body. A closer look at the Commission's report will reveal that the Commission does not make legal decision. The report consists of findings and recommendations of the Commission on the five terms of reference entrusted upon them to do. Being mere findings and recommendations, it do not bind the respondents, not even the government.*

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[26] It is trite law that the purpose of an order for *certiorari* is to quash the legal effect of a decision. In England, in the case of *Council of Civil Service Unions and Others v. Minister for the Civil Service* [1984] 3 All ER 935 the House of Lords held that for a decision to be susceptible to the court's reviewing powers, there must first be a decision by a decision maker or a refusal by him to make a decision, and, that decision must affect the aggrieved party by either altering his rights or obligations or depriving him of the benefits which he has been permitted to enjoy. (emphasis added)

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A [41] It was pointed out by the Bar Council that the SUHAKAM Panel of Inquiry had concluded that the petitioner had acted with *mala fide*:

DSP Jude was apparently worried of any possible concealment, fabrication or destruction of evidence or the intimidation of the witness if access to counsel was allowed to the 5 lawyers. **We find these reasons amusing to say the least.**

...

This is in fact a powerful piece of evidence to **show *mala fide* and improper motives** on the part of the police to deny access to counsel. (emphasis added)

C [42] That conclusion of the SUHAKAM Report must be balanced with what was further noted in the report that “such violations of human rights occurred because **the relevant officers did not understand nor appreciate the functions and duties of defence lawyers** in the context of the criminal justice system.” (emphasis added)

D [43] Again any doubt must be resolved in favour of the petitioner. A failure by the petitioner to appreciate the functions and duties of defence lawyers in wanting to have immediate access to their clients just arrested would be more an issue of competence or rather the lack of it.

E [44] I appreciate that the actions or inactions of the petitioner have resulted in a serious breach of the constitutional rights of the detainees and the lawyers who represented them when these lawyers were themselves detained. Civil suits were filed by the detained lawyers for breach of their constitutional rights and for unlawful detention and His Lordship John O'hara J has awarded damages of RM60,000 per lawyer which included exemplary and aggravated damages as reported in *Fadiah Nadwa Fikri & Ors v. Konstable Fauziah Mustafa & Ors & Another Cases* [2014] 1 LNS 1467. The judgment has been upheld on appeal to the Court of Appeal. The petitioner would no doubt have to pay the said judgment as he is named as a defendant and the Government of Malaysia too. It could well be that the Government of Malaysia will discharge the judgment debt being vicariously liable for the negligence of its servants and agents but that does not take away the sting of liability. The petitioner having been found liable under a civil judgment debt, should he be punished further by being disallowed to petition for an admission as an advocate and solicitor?

H [45] I do not think so. Even those who have been convicted of a criminal offence or have been found liable under some disciplinary proceedings have later been allowed admission or re-admission if they had been struck out before. I am sure if there is any subsequent misconduct that the petitioner may later be found guilty of, the disciplinary board could be persuaded to consider his conduct as found in the SUHAKAM Report and to mete out a harsh punishment and if necessary and justified, even a striking out from the Rolls. A case in point is that of *Re SRC Augustin* [1972] 1 LNS 128; [1973]

1 MLJ 208. In that case, Mr Augustin was dismissed from the police force based on his conviction in Thailand for possession of opium without lawful authority. He subsequently read for the bar at the Inns of Court. The Attorney General sent a report of his conviction to the Inn. The treasurer was content, in view of the sentence served, to issue a warning that any future misconduct might lead to his being struck off the roll of students. He was called to the English Bar in 1969. He then applied for admission to the Malaysian Bar. The Bar Council took objection. Ong CJ, in allowing the Petition for admission said at p. 209:

... If misconduct committed nearly ten years ago is today a good disqualification, then logically an ineradicable weakness of character should remain valid two years hence, or even ten. But was the lapse evidence of an incurable defect? **The petitioner had undergone punishment in Thailand. In Malaya he had further suffered dismissal. All in all, it was an unforgettable lesson. The question is whether he had expiated in full for his lapse from rectitude, or do I take it on myself to mete out further retribution. Would it be right to blight any man's future prospects for ever?** It is said that he can seek other employment. I believe prospective employers do generally require references. Mr. Augustin would naturally have to include his certificate of call to the English Bar. Inevitably would follow the disclosure that the court had considered his character to be such that it renders him unfit for admission to practice. Would any employer be more indulgent?

The same considerations apply, in my opinion, to striking off the roll and refusing admission. It is entirely a question of character and fitness. On the file in support of Mr. Augustin's petition are certificates of his good character given by practitioners of several years' standing. His offence and conviction in the Thai Military Court had been reported on December 4, 1963 by the Attorney General to the Inn of which he was admitted as a student in January 1961 - while still in the police force. **The Treasurer was content, in view of the sentence served, to issue a warning that any future misconduct might lead to his being struck off the roll of students. The blot on his record did not obstruct his call to the Bar on November 26, 1969.**

I am sure the Inns of Court are every bit as jealous of the honour of those admitted to the English Bar as are advocates and solicitors in Malaysia regarding the reputation of the legal fraternity. The objectors have freely conceded that nothing has been known to the discredit of Mr. Augustin since January 1964. **For my own part I think that he has learnt a bitter lesson and there remains nothing more that he has to atone for. Should I dismiss this petition I would in effect be saying that he suffers from an incurable and ineradicable defect of character.** I do not think one can safely be prophetic about the future conduct of anybody except drug addicts and habitual criminals. Nor do I think, quoting from Lord Lindley's judgment at page 477 in Weare's case, that "it would be a stretch of charity which would degenerate into absurd and ridiculous weakness" to consider the unhappy episode a closed chapter in

- A Mr Augustin's past. He must know that the future consequences of any misconduct will be visited with the severest sanctions. Where, in 1964 we had readmitted an advocate and solicitor struck off the rolls six years earlier, our trust and confidence has not been misplaced. I do not think Mr Augustin will lightly abuse my trust. I shall accordingly allow this petition. (emphasis added)
- B [46] Mr Domnic Selvam for the petitioner referred to the case of *Chan Chow Wang v. Malaysia Bar* [1986] 1 LNS 94; [1986] 2 MLJ 159, where the court allowed the re-admittance of a solicitor who was struck off the rolls in the United Kingdom and Singapore for fraudulent misconduct. it was held
- C that the test to be applied is whether in the circumstances of the case it is fair and reasonable to re-admit the applicant to the Bar. The re-admission to the Bar in Malaya must be considered independently of his re-admission to the Bar in Singapore or the refusal of the Honourable Society of Lincoln's Inn to reinstate him to the Bar of England and Wales. On a full consideration of the facts and circumstances of the case, the court was satisfied that it is fair
- D and reasonable to re-admit the applicant to the Bar of Malaya.
- [47] Similarly in the case of *Re Chin Swee Oon* [1964] 1 LNS 167; [1964] MLJ 124, the court had this to say as summarised in the headnotes:
- E Held : after taking into account the applicant's age, that he had made full restitution, that he had been truly penitent, that he had the good name of his family to consider at all time, that he had for the past six years lived a blameless life, the Court was satisfied that there was no risk of a repetition of the same or any other offence when he resumed practice and there was no prejudice to the public interest.
- F [48] In *Thavanathan Balasubramaniam v. Majlis Peguam Malaysia* [2009] 6 CLJ 217 the Federal court allowed the appeal of the applicant to be re-admitted to the Roll although the applicant was convicted and served his sentence of imprisonment of three years for corruption. The court in its ruling held that "Disbarment is not necessarily intended to be permanent ...".
- G [49] Likewise in *Charanjit Singh Santokh Singh v. Majlis Peguam Malaysia & Anor* [2013] 3 CLJ 688; [2013] 9 MLJ 400 the court held:
- H [26] It is worth noting that applicants with criminal convictions for corruption and criminal breach of trust have been given a second chance after the courts were satisfied that they have been rehabilitated. I need not elaborate as these instances have been well documented in the case of *Thavananthan*. Significantly as well, there was no evidence of dishonesty in the case of the applicant. The most that can be said against the applicant was that he was grossly negligent or reckless and for that he has paid a heavy price.
- I [27] The applicant has also shown repentance and penitence when he accepted his punishment for the last 13 years. There is no issue with regard to restitution. I do not also think that public confidence of the legal profession will be diminished by the restoration to the Roll of the

applicant. I think that public interest will also be served by affording the applicant a second chance to serve society by utilising his knowledge and experience. His disbarment will also serve him well. As opined by the senior pastor who filed a letter on behalf of the applicant and with whose sentiments I agree; 'only those who have suffered much will know the suffering of others'. In a somewhat similar vein is the statement in *Ex parte FE Maddocks Cohen* (1956) 73 WN (NSW) 126; 'But the false steps of youth and early manhood are not always the final proof of defective character and unfitness. The presumption which, according to circumstances, they may appear to raise may surely be overcome by a subsequent blameless career'. (emphasis added)

[50] In *Jackson (previously known as Subramaniam) v. Legal Practitioners Admission Board* [2006] NSWSC 1338 referred to earlier, the court conducted a trial and heard evidence of "the circumstances in which the plaintiff is said to have made a false declaration and given false evidence before the District Court in 1996" which were the "central issues" before the court. The Board placed before the court evidence adverse to the plaintiff on these issues and called witnesses as can be seen in the observations below:

[65] The central issue in these proceedings concern the circumstances in which the Plaintiff is said to have made a false statutory declaration, and given false evidence before the District Court in 1996 ... At her first criminal trial, in 1999, the Plaintiff denied on oath that she had made a false statutory declaration or given false evidence in the District Court. She maintained that position in evidence before me in these proceedings. She called evidence from other witnesses to support her case.

[66] The Board placed before the Court evidence adverse to the Plaintiff on these issues, and called witnesses who were cross examined by Mr Hall on behalf of the Plaintiff.

[51] Here there has been no charge preferred against the petitioner of having given false evidence and neither has the Bar Council called any witnesses in the objection proceedings or applied to court to have the matter heard by way of calling witnesses. The protection accorded to witnesses to give evidence before the commission would be available to the petitioner in the absence of a charge for giving or fabricating false evidence. Section 15 of the Human Rights Commission of Malaysia Act 1999 (SUHAKAM Act 1999) reads:

15. Evidence before the Commission

15. (1) A person who gives evidence before the Commission shall, in respect of such evidence, be entitled to all privileges to which a witness giving evidence before a court of law is entitled in respect of evidence given by him before such court;

(2) No person shall, in respect of any evidence written or oral given by that person to or before the Commission, be liable to any action or proceeding, civil or criminal in any court **except, when the person is charged with giving or fabricating false evidence.** (emphasis added)

- A [52] However I do agree with the Bar Council that a breach of the basic fundamental human rights of a detainee and especially of the volunteer lawyers is a serious matter, more so taking into consideration the background of the petitioner as a law enforcer officer. He now wants to be admitted to the Roll of Advocate and Solicitor and to serve the profession and the people.
- B This time of course he will be on the other side of the fence so to speak and the fear of him making the same mistake and judgment call would perhaps be not that relevant anymore.

- C [53] I am prepared to accept that the expression “good character” is broad enough to cover actions or inactions that impinge on breach of the human rights of detainees and the volunteer lawyers. After all it is character that leads to conduct and the two are inseparable one from the other. However in as much as the law is majestic and mighty such that no one can escape its reach or be above it, the law as I know it, is also magnanimous and merciful and gives many a second chance to prove themselves worthy of their calling
- D in life. Here is not a case where the petitioner has suffered from an alarming deficiency in character such that we would be anxious to have him admitted as an honourable member of the legal profession. His was more a case where he had seriously misunderstood the application of the fundamental liberties provision of the Federal Constitution with respect to the rights of detainees and the legal counsel who represent them.
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- F [54] For that he had paid for it in the judgment where the Government of Malaysia has been held to be vicariously liable in the civil suit before His Lordship John O’hara where the petitioner had been named as a defendant as well, and as such jointly and severally liable. For that he had suffered loss of time in pursuing the appeal and now in waiting anxiously for this court’s decision whilst other who had completed their chambering together with him had been long called.

Pronouncement

- G [55] Whilst we would exact the same high standard of ourselves as we expect of others in the profession, we must also refrain from exacting from others more than what we expect from ourselves. After hearing submission from both learned counsel for the petitioner and the Bar Council, I am of the view that justice of the case would be served if the petitioner would be
- H allowed to be called to the Bar after a lapse of three months from the date of this order.

- I [56] During the period from then till the expiry of the three months, the petitioner should attend some human rights seminars, forums, activities or programmes organised by the Bar Council Human Rights Committee or if there is none, then any other related programmes of the Bar Council which would allow the petitioner to have a period of reflective conscientisation with respect to the ethos of human rights especially of detainees under our criminal justice system.

[57] This is not to be viewed as a punishment but that it all seriousness it would serve as a kind of reflective rehabilitation for the new role that the petitioner would be ushered into upon his call to the Bar after the expiry of three months from the date of this order. No greater burden than is necessary should be imposed on the petitioner save for some eight hours of the above training, lecture or involvement in the programmes that the Bar Council may prescribe for the petitioner.

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[58] I trust that thereafter the petitioner should be welcomed into the profession and with his background and experience serving on the other side of the law, he would be able to play the important role as an honourable member of the profession in upholding human rights and the rule of law.

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[59] I trust that the Bar Council would be able to facilitate this training programme for the petitioner so that at the end of the three months' period, the petitioner would be admitted and enrolled into the roll of advocates and solicitors of the High Court of Malaya.

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[60] I made no order as to costs. I had proceeded to fix 25 March 2015 at 9am for the admission of the petitioner as an advocate and solicitor of the High Court of Malaya, having been given the assurance that the petitioner would be fulfilling the above directions given by this court and that he would be filing the necessary affidavit showing his compliance with the eight hours of training prescribed.

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